

GOVERNMENT OF ANDHRA PRADESH

A B S T R A C T

Public Services-Irrigation & CAD Department-Sri P. Sadananda Murthy, DEE (then called as AE) at special sub-division, Cumbum, Markapuram division –Departmental proceedings initiated for the irregularities in the works relating to lining to Sekirail Katwa Channel of Cumbum Tank- Disciplinary case finalised -Orders Issued.

IRRIGATION & CAD (SER.X.2) DEPARTMENT

G.O.Ms.No. 33

Dt:25.02.2009

Read the following:

- (1) G.O.Ms.No.317, I & CAD (CAD.Ser.II) Dept., dt.11-7-83.
- (2) Govt. Memo.4067/Ser.IV-1/81-24, dt.18-12-85
- (3) G.O.Ms.No.390, I & CAD (CAD.Ser.II) Dept., dt.19-11-87.
- (4) G.O.Rt.No.377, I & CAD (CAD.Ser.II) Dept., dt.15-6-88.
- (5) G.O.Ms.No.221, I & CAD (CAD.Ser.II) Dept., dt.9-7-92.
- (6) From the A.P.A.T. orders dt.23-11-98 in O.A.No.5118 of 1992.
- (7) G.O.Rt.No.1167, I&CAD (CAD Ser.II) Dept., dt.4.7.2002.
- (8) U.O.Note No.COI.M/Ch.P.S/118/2002, G.A.(COI) Dept., dt.19.7.2002, 23.8.2002.
- (9) G.O.Rt.No.965, I & CAD (CAD.Ser.II) Dept., dt.07-08-2003.
- (10) G.O.Rt.No.966, I & CAD (CAD.Ser.II) Dept., dt.07-08-2003
- (11) From the A.P.A.T. Orders dt. 27.3.2006 in O.A. No.6761/2003.
- (12) From the A.P.H.C. orders dt. 19.8.2008 in WP No. 26219/2006
- (13) Representation of Sri P. Sadananda Murthy, Dt. 28.11.2008.

&&&

ORDER:

In the Government Order first read above, orders have been issued, appointing Sri C. Sankaraiah, Superintending Engineer, NSRC, Guntur as Inquiry Officer to conduct departmental enquiry against Sri P.Sadananda Murthy, Deputy Executive Engineer and others on the irregularities reported to have been committed by them in connection with the execution of Cyclone Damage Repair works to Sekirail Katwa Channel from 0/0 to 10/0 and Special repairs to Sekirail Katwa Head Regulator. The Enquiry Officer has conducted enquiry and submitted his enquiry report. In the reference 2nd read above, Show Cause Notice has been issued to the charged officer duly communicating the Enquiry Report. Government after careful examination of the Enquiry Officer's report has finally issued orders in the reference 3rd read above, removing Sri P.Sadananda Murthy, Deputy Executive Engineer from service.

2. Aggrieved by the show cause notice issued in the Government reference 2nd read above, the Accused Officer has filed R.P.No.6700/87 in Andhra Pradesh Administrative Tribunal for maintaining status quo. As per the direction of Andhra Pradesh Administrative Tribunal dt.11-3-88, orders were issued in the Government Order 4th read above, appointing the Commissioner of Inquiries, Irrigation & CAD Department as an Inquiry Officer to conduct departmental enquiry afresh under Rule 19 (2) of Andhra Pradesh Civil Services (CC&A) Rules, 1963 against Sri P.Sadananda Murthy and another. The Inquiry Officer has conducted the enquiry and submitted his enquiry report. After careful examination of the Enquiry Officer's report, have finally issued orders in the Government Order 5th read above, imposing the punishment of removal of the Accused Officer from Government service.

3. Aggrieved by the above punishment orders, Sri P.Sadananda Murthy, Deputy Executive Engineer has filed O.A.No.5118 of 1992 before the Andhra Pradesh Administrative Tribunal. The Andhra Pradesh Administrative Tribunal in its orders fifth read above have directed, inter-alia, as follows:-

“Thus, the O.A. is allowed. The respondents are at liberty to refer the matter to the Tribunal for Disciplinary Proceedings for a finding as per the provisions of A.P.Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 as indicated supra and act as per the findings of the Tribunal. The impugned proceedings are accordingly set aside. No Costs”

4. Aggrieved by the above orders Government have filed WP No.4889/1999 in the Hon'ble High Court of A.P. The Hon'ble High Court in its orders dt. 2.2.2001 have confirmed the orders of the APAT. Aggrieved by the orders of Hon'ble A.P. High Court Govt. have filed S.L.P. No.14114/2001 in the Supreme Court of India. The Hon'ble Supreme Court of India has dismissed the S.L.P. on 31.8.2001.

5. The Government have examined the matter and as the TDP will not inquire into the cases of retired persons and as the Accused Officer retired from service on attaining the age of superannuation on 31-7-2001 A.N., it is decided that since the Charge Memo. was issued by the Inquiry Officer before his retirement, the same may be continued and conclude the disciplinary proceedings from the stage of vitiation under Rule 9 of Andhra Pradesh Revised Pension Rules, 1980 by appointing another Inquiry Officer.

6. In the Government Order 7th read above, orders were issued, appointing Sri Ch.P.Sastry, Member, Commissionerate of Inquiries, General Administration Department as Inquiry Officer to conduct departmental inquiry afresh under Rule 9 of Andhra Pradesh Revised Pension Rules, 1980 against Sri P.Sadananda Murthy, DEE (Retd) from the stage of vitiation and submit his report to Government with his findings. The Inquiry Officer in the reference 8th read above have returned the record stating that the disciplinary authority has to take action in accordance with the procedure laid down under Rule 20 of the APCS (CC&A) Rules, 1991.

7. The Government after careful examination of the matter it is proposed to take disciplinary action against Sri P.Sadananda Murthy, DEE (Retd) in accordance with the procedure laid down in Rule 20 of the Andhra Pradesh Civil Services (CC&A) Rules, 1991 duly canceling the orders issued earlier in the reference 7th read above. Accordingly cancellation orders were issued in the reference 9th read above and the Articles of Charges were issued afresh in the reference 10th read cited.

8. Aggrieved by the above, the charged officer has filed O.A.No.6761/2003 challenging the Article of Charges Issued by the Government. The Hon'ble Tribunal in its judgment dated 27.3.2006 directed as follows:

“Given the totality of the circumstances, I am inclined to grant the prayers, sought for by the applicants, in these O. As. All these O. As., are accordingly, allowed and the impugned proceedings in Memo.No.3283/ Vig.II (3)/ 2002-7,dt. 710.2003, in O.A. No.1273/ 2003 and in the G.O. Rt. No.966, dt. 7.8.2003, impugned in O.A.No. 6761/2003, are liable to be set aside and they are accordingly set-aside. Any further consequential action, taken by the Respondents, in pursuance of the said Memo. and G.O. is also, therefore, not sustainable in the eye of Law. The respondents shall, consequently, release all the pensionary benefits, payable to the applicants, within a period of three months, from the date of receipt of a copy of this order, V.M.A. stands dismissed. No order as to costs.”

9. Aggrieved by the above orders Government have filed WP No. 26219/2006 in the Hon'ble High Court of A.P. The Hon'ble High Court in its final orders dt. 19.8.2008 have ordered as follows:

“ the Government now seeks to initiate departmental proceedings on the ground that the delinquent officer had retired from service and TDP has no jurisdiction. Having been unsuccessful all through, it is not open to the Government to initiate departmental proceeding after such a long time and if the same were to be allowed, it would cause prejudice to the respondent. . It is not in dispute that the respondent was not reinstated into service when the Tribunal set aside the removal order and the Government had carried the matter to the Supreme Court and that he was out of service from 30.8.1992 till the date of his retirement on 31.7.2001. It is also not in dispute that the respondent has not discharged the duties during the said period and we are of the considered opinion that he has not entitled to any arrears of salary for such period on the principle no work, no pay. However, we direct the authorities to treat the period between 30.8.1992 and 31.7.2001 as “on duty” and fix the pay notionally by taking into account annual increments and calculate the pensionary benefits, which was agreed and accepted by the learned counsel for the respondent. Thus, the respondent is entitled to notional fixation of

pay during the period he was out of employment for the purpose of computation of pension. Learned counsel for the respondent submitted that the subsistence allowance paid may not be recovered. Having regard to the circumstances under which the respondent was suspended from service, we deem fit just and proper to direct the authorities that the amount paid towards subsistence allowance during the period of suspension, shall not be recovered while settling the retrial and pensionary benefits. The petitioners shall pay the pensionary and all other retrial benefits to the respondent. This exercise shall be completed within a period of two months from the date of receipt of this order. Accordingly the writ petition is disposed of No orders as to costs."

10. Government after careful examination of the matter have decided to implement the orders of the Hon'ble A.P. High Court in WP No.26291/2006 dt. 19.8.2008. Accordingly, Government hereby order to treat the period between 30.8.1992 to 31.7.2001 (i.e. removal from service to date of superannuation) of Sri P.Sadannda Murthy, DEE (Retd.) as duty and his pay be fixed notionally by taking into annual grade increments and release the pensionary and all other retirement benefits, duly dropping further action against Sri P.Sadannda Murthy, DEE(Retd.). The amount so far paid towards subsistence allowance during the period of suspension shall not be recovered while settling the retirement and pensionary benefits, and no interest is to be paid on pensionary benefits.

11. The Engineer-In-Chief (Administration Wing) shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.TUCKER
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Engineer-In-Chief(Administration Wing), Hyderabad.
Sri P.Sadannda Murthy, Deputy Executive Engineer (Retd.)
through the Engineer-In-Chief(Administration Wing), Hyderabad Copy to:
The A.P.V.C., Hyderabad
The Accountant General, Andhra Pradesh, Hyderabad.
SF/SC

//FORWARDED : : BY ORDER//

SECTION OFFICER